

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

JUSTINA ROONAN

Debtor

BK. No. 20-11810 AMC

Chapter No. 13

**THE BANK OF NEW YORK MELLON F/K/A
THE BANK OF NEW YORK AS TRUSTEE
FOR CENDANT MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2000-B**

Movant

11 U.S.C. §362

v.

:

JUSTINA ROONAN

Respondent

**MOTION OF THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK
AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES
2000-B FOR RELIEF FROM AUTOMATIC STAY UNDER §362 PURSUANT TO
BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, Brock and Scott PLLC, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by JUSTINA ROONAN.

1. Movant is **THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B**.

2. Debtor, JUSTINA ROONAN, is the owner of the premises located at 10830 PELLE CIRCLE, PHILADELPHIA, PENNSYLVANIA 19154 hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.

6. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.

7. As of September 4, 2020, Debtor has failed to tender post-petition mortgage payments for the months of July 2020 through September 2020. The monthly payment amount for the months of July 2020 through September 2020 is \$1,411.13, for a total amount due of \$4,233.39. The next payment is due on or before October 1, 2020 in the amount of \$1,411.13. The notice of postpetition fees has already been filed for the following fees and costs that have been incurred since bankruptcy filing: Plan Review fee in the amount of \$250.00, Proof of Claim 410A Fee in the amount of \$250.00, Preparation/Filing of Proof of Claim in the amount of \$700.00. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B**, requests the Court award reimbursement in the amount of \$1,231.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with and Debtor(s) and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. Movant, it's successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the automatic stay.

12. PHH MORTGAGE CORPORATION services the underlying mortgage loan and note for the property referenced in this Motion for Relief for **THE BANK OF NEW YORK**

MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B (the noteholder). THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B (the noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **10830 PELLE CIRCLE, PHILADELPHIA, PA 19154** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay; and

d. Granting any other relief that this Court deems equitable and just.

November 6, 2020

/s/ Andrew Spivack
Andrew Spivack
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PHH MORTGAGE CORPORATION, as Servicer for THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CENDANT MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2000-B, SERVICES THE LOAN ON THE PROPERTY REFERENCED IN THIS DOCUMENT. IN THE EVENT THE AUTOMATIC STAY IN THIS

CASE IS MODIFIED, THIS CASE DISMISSES, AND/OR THE DEBTOR OBTAINS A DISCHARGE AND A FORECLOSURE ACTION IS COMMENCED ON THE MORTGAGED PROPERTY, THE FORECLOSURE WILL BE CONDUCTED IN THE NAME OF CREDITOR.

CREDITOR, DIRECTLY OR THROUGH AN AGENT, HAS POSSESSION OF THE PROMISSORY NOTE. CREDITOR IS THE ORIGINAL MORTGAGEE OR BENEFICIARY OR THE ASSIGNEE OF THE MORTGAGE.